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C O N F I D E N T I A L SECTION 01 OF 02 SUVA 000064

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TAGS: [PREL](#) [PGOV](#) [MARR](#) [ASEC](#) [FJ](#)
SUBJECT: NEW DOCUMENTS RAISE CONCERNS ABOUT POSSIBLE
ILLEGAL MILITARY ACTION IN FIJI

REF: SUVA 0057

Classified By: Ambassador Dinger for Reasons 1.4 (B) and (D)

¶1. (C) Summary. The Australian High Commissioner to Fiji, Jennifer Rawson, passed us copies February 17 of two documents that raise concerns about Republic of Fiji Military Forces (RFMF) Commander Frank Bainimarama's intentions in the run-up to this year's planned elections in Fiji. Both documents were given by the RFMF to Police Commission Andrew Hughes, an Australian national. It is unclear if Bainimarama meant for Hughes to receive both documents. He specifically directed his staff to give Hughes only the first, a letter the Commander had written to Vice President Ratu Joni Madraiwiwi, dated February 14, 2006, that details RFMF complaints against the government and calls for the delay of elections until a census is conducted. At some recent point, Bainimarama also reportedly has asked the President to dissolve Parliament, an act the President may not have the constitutional authority to take. The second document, titled "Doctrine of Necessity," argues that under certain circumstances extra-constitutional action by the military would be justified. Hughes reportedly plans to share the documents with his boss, the Minister of Home Affairs. We have scanned the two documents into our classified system and are e-mailing them to EAP/ANP. See paragraphs 10-12 for our instant analysis of possible ramifications, with more to follow as the situation unfolds. End Summary.

Letter to the Vice President; Verbal Request for
President to Dissolve Parliament

¶2. (C) The letter from Bainimarama to Vice President Ratu Joni Madraiwiwi states that the RFMF "would like to express its dissatisfaction and disappointment on the general state of affairs in the country." The letter lists a series of complaints about the current government including: perception of widespread corruption, failure of Fiji's electoral system, deterioration of the rule of law, and the government's attempt to destabilize the RFMF. The letter reiterates the point Bainimarama made to the Ambassador and visiting EAP/ANP Director Krawitz February 14 (reftel), that unless a census is conducted, the general elections should not be held. Unless there is a census, "the upcoming elections will not be contested on a fair and democratic basis and it will deprive the people of Fiji a truly democratically elected Government."

¶3. (C) According the Rawson, at some point recently Bainimarama asked for the Acting President to dissolve Parliament and arrange for a temporary government to be put in place while a census is undertaken. Ratu Joni told Rawson that he will send a written response to Bainimarama stating

that in the present circumstances the President has no authority to dissolve the government or order a census be undertaken.

Doctrine of Necessity

14. (C) The document titled "Doctrine of Necessity" appears to be an RFMF-prepared think piece on extra-constitutional options and justifications. It begins by referring to the Supreme Court of Pakistan, which after the military takeover in that country, "declared that when the state of affairs in the country deteriorate (sic) to such an extent (crisis situation) where there is no constitutional provision to provide a remedy, extra constitutional measures can be taken under the doctrine of necessity." The document enumerates the evidence that the Court relied upon to determine if a crisis situation existed in Pakistan and notes the Court's finding that General Musharraf acted for the welfare of the people in taking over the government.

15. (C) In subsequent pages, the document discusses "the prevailing political, legal and social conditions in Fiji." It notes that a census has not been conducted, questions the independence of the Elections Office, and states that many voters are disenfranchised. Under "Collapse of the Rule of Law" the document attacks the proposed Reconciliation Bill, stating that it is unconstitutional and will result in amnesty for persons convicted of treason and others not yet charged. The document charges that the Supreme Court is biased, and notes a rift in the Judiciary. It states that "ethnic considerations are now utilized to appoint judicial officers and these have been carried out unopposed by the President of the Fiji Law Society (who is Graham Leung) and

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the PSC." It claims the government is filled with corruption. Finally, the document states the government has attempted to destabilize Fiji's military forces "by way of administrative action and trying to incite members of the FMF to rise against the Commander and those loyal to him."

16. (C) The final page of "Doctrine of Necessity" lists a number of actions to be taken "in the event extra-constitutional steps are taken." Steps include: appoint an interim administration, members of which will not contest the next elections; inform the public as to why such action was taken; give assurances to the business community to ensure stable commercial and economic activity; and seek assistance from the international community in order to undertake a census and electoral reform.

17. (C) Hughes told Rawson he doesn't know if Bainimarama meant for him to see the "Doctrine of Necessity" document, whether it was given to him accidentally, or whether an RFMF staffer intentionally gave it to him without the Commander's orders. Rawson says the document clearly is contemporary, since it refers to issues like the census, and the alleged attempt to incite members of the military "to rise against the Commander." (Comment: The document, at times, uses the same wording as the letter to the Vice President. On the other hand, the document always speaks of the military in the third person, and refers to the "FMF" instead of the "RFMF" as used in the letter. We cannot say for sure, therefore, that the RFMF drafted the document. End comment.)

Hughes Shows Documents to Vice President; Reportedly Plans to Share with Minister of Home Affairs

18. (C) Rawson arranged a meeting between Ratu Joni and Hughes February 16, at which time Hughes showed the Vice President the two documents. Ratu Joni said he had received the letter from the Commander, but not the "Doctrine of Necessity" document. After seeing the latter document, Ratu Joni told Hughes "if this weren't so serious, this would be

laughable."

¶9. (C) Hughes told Rawson that, as Commissioner of Police, he feels duty-bound to share the "Doctrine of Necessity" with his boss, the Minister of Home Affairs. He has not yet done so, because he wants his police "intelligence section" to do some checking into the document. Rawson said Hughes will pass the document to the Minister sometime next week.

Comment: What Next?

¶10. (C) If and when Hughes passes the documents to his minister, the PM will become aware, if he is not already, of Bainimarama's ponderings about removing the Government. Our sense is that the President and Vice President are the most likely actors to convince Bainimarama to contain his frustrations. The PM has no influence over the Commander. But how might the PM calculate his options, assuming the President and VP do not resolve the matter? That probably depends on the PM's judgment regarding Bainimarama's actual ability to act. Some wonder if the RFMF would back its Commander in illegal action, especially against the ethnic-Fijian PM. It is probable that nobody knows for sure.

¶11. (C) Thus, Bainimarama and Qarase may both be in situations of rolling the dice. For Bainimarama, to order his troops risks their refusal to follow. If he were to succeed, it also clearly would trigger international negative reaction detrimental to Fiji's military reputation and tourism economy. Bainimarama knows that. For the PM, to remain silent and continue on the course toward an early election (late April, per reftel), would carry a risk of rapidly triggering a Bainimarama attempt. For the PM, to publicize the Commander's threat, or to seek to prosecute him (with the documentary evidence which could appear a smoking gun) would be betting that the RFMF troops and the public would back the Government at crunch time. But for the PM to attempt to delay elections long enough for a census would likely result in illegally continuing the current Government beyond its November expiration. It would also be a glaring display of political weakness.

12 (C) As seems always the case in Fiji, the political-military mix is extremely complicated. We will provide further analysis as the situation unfolds.
DINGER